

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN TIMOTHY KEARNEY, On Behalf Of Himself and All Others Similarly Situated	:	CIVIL ACTION
	:	
	:	
	:	
v.	:	
	:	
	:	
FIRST TRANSIT, INC. and JOHN DOE 1, 2 & 3	:	NO. 12-149

ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT

NOW, this 10th day of January, 2013, upon consideration of the Joint Motion For Preliminary Approval Of Class Settlement and it appearing that the settlement memorialized in the Joint Stipulation and Settlement Agreement (the "Settlement Agreement") falls within the range of reasonableness, it is **ORDERED** that the motion is **GRANTED**.

IT IS FURTHER ORDERED as follows:

1. The terms of the Settlement Agreement are conditionally approved.
2. This action shall be maintained as a class action, for settlement purposes only, on behalf of the following class ("Settlement Class"):

All persons (or the estates of such persons) currently or formerly employed by First Transit, Inc. within its Philadelphia metropolitan area/SEPTA paratransit operation as a paratransit vehicle driver position from December 1, 2008 until and including November 10, 2012.

3. For settlement purposes only, the class meets the requirements for certification under Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure in that: (1) the class is so numerous that joinder is impracticable; (2) there are questions of law and fact that are common to all class members, which questions predominate over

individual issues; (3) the plaintiff's claims are typical of the claims of the class members; (4) the plaintiffs and their counsel will fairly and adequately protect the interests of the class; and (5) a class action is superior to other available methods for the fair and efficient resolution of the controversy.

4. This Order, which conditionally certifies a class action for settlement purposes only, shall not be cited in any matter for the purpose of seeking class action certification or class action notice.

5. John Timothy Kearney, who is an adequate class representative, is appointed as settlement class representative.

6. The law firm of Brodie & Rubinsky, P.C. is appointed as settlement class counsel.

7. The law firm of Brodie & Rubinsky, P.C. is appointed as Claims Administrator for settlement purposes.

8. The manner and form of the Notice to Employee Class Members Regarding Pendency of a Class Action and Notice of Hearing on Proposed Settlement, and the Change of Name and/or Address Information Form (Form A), attached to the Stipulation as Exhibit 1, are approved.

9. The Claims Administrator shall mail, by first class mail, the Notice and the Form to the class members no later than **January 30, 2013**.

10. Any member of the Settlement Class who wishes to be excluded ("opt out") must send a written request for exclusion, postmarked no later than **March 19, 2013**, to the Claims Administrator at the address listed in the Notice.

11. Any member of the Settlement Class who does not properly and timely request exclusion shall be bound by the terms and provisions of the Settlement Stipulation, whether or not such person objected to the settlement and whether or not such person made a claim upon, or participated in, the settlement fund pursuant to the Settlement.

12. All members of the Settlement Class who do not personally and timely request to be excluded are enjoined from proceeding against the defendants.

13. Objections to the proposed settlement by class members who have not timely elected to exclude themselves from the class will be considered only if the objections are filed in writing with the Clerk of Court and the Settlement Administrator on or before **March 19, 2013**.

14. Class members who have not timely elected to exclude themselves from the class may be heard at the hearing in support of or in opposition to the settlement, provided they file with the Clerk of Court and the Administrator a written notification of their desire to appear personally and indicate the specific grounds for their objection, if any, no later than **March 19, 2013**.

15. Counsel for the class and for the defendant shall be prepared at the hearing to respond to objections filed by class members.

16. The motion for final approval of the settlement, and Class Counsel's motion for attorneys' fees, costs, and the class representative's incentive award shall be filed no later than **March 29, 2013**.

17. A final approval hearing shall be held on **April 9, 2013**, at **9:00 a.m.**, in **Courtroom 9A**, to determine the fairness, reasonableness, and adequacy of the settlement, and to fix the amounts of attorneys' fees and costs, and the incentive award to the class representative.

/s/Timothy J. Savage
TIMOTHY J. SAVAGE, J.